

***NATIONAL MARINE FISHERIES SERVICE INSTRUCTION 31-103-01
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***Financial Management and Budget
Congressional Reports***

***RULES FOR REVIEW AND CLEARANCE OF NMFS
CONGRESSIONALLY MANDATED REPORTS***

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[Approving Authority name] Date
[Approving Authority title]

RULES FOR REVIEW AND CLEARANCE OF NMFS CONGRESSIONALLY MANDATED REPORTS

(1) **If the report is addressed to an Appropriations Committee**, it must be signed by the Secretary of Commerce or his designee. NOAA, DOC, and OMB must each review and clear the report before it is submitted to Congress.ⁱ NFA and DOC require NMFS to allow 3 weeks for this purpose at each level (i.e., the “3-6-9 Rule”.) NMFS has decided to allow an additional 3 weeks for internal review and clearance. Therefore these reports must be submitted to NMFS CU at least 12 weeks before the due-date to Congress.

(2) **If the report is not addressed to an Appropriations Committee** (e.g., to an Authorizing Committee, the President of the Senate, the Speaker of the House, or the “Congress”), **and does not explicitly require the signature of the Secretary of Commerce or the Administrator**, it may usually be signed and submitted to Congress by the AA for Fisheries.ⁱⁱ Before submitting the report, the AA for Fisheries must inform the NOAA Administrator of any “controversial” mattersⁱⁱⁱ and obtain comments from NOAA GC^{iv}. This may be done at weekly AA meetings, NMFS Fish of the Week meetings, or other occasions. NMFS has also informally agreed to provide certain individuals in NOAA GC, DOC GC and DOC OS with three days in which to comment on any report once it has been prepared for the signature of the AA for Fisheries. After submitting the report, NMFS CU must provide NOAA EXECSEC with an information copy of the letter to Congress and the report itself. NMFS only requires 3 weeks for review and clearance by NMFS, GCF, and LA. Therefore these reports must be submitted to NMFS CU at least 3 weeks before the due-date to Congress.

ⁱ The NOAA Budget Office (NBO) Policy for Congressional Reporting Requirements and Reprogrammings, #03-P003 (issued December 2, 2002) prescribes procedures for preparing and clearing Congressionally mandated reports. It includes a policy for “internal cycle times to meet established deadlines.”

ⁱⁱ The NOAA Organization Handbook FA000, Transmittal No. 34 (issued May 31, 1993) delegates to the Assistant Administrator for Fisheries the authority to perform certain functions, with noted conditions and reservations. These functions are specifically identified and involve administrative / management, financial assistance / industry services, and management of living marine resources. In order to determine if a particular report is subject to this delegation of authority, it is necessary to examine the description of each function in detail.

The Department Organization Order 10-15 (issued January 30, 1996) delegates to the Under Secretary / Administrator the authority to perform certain functions. This authority is also qualified, most importantly by the provision that “the Secretary reserves the authority to provide general policy guidance to the Under Secretary / Administrator and, from time to time at the Secretary’s discretion, either on the Secretary’s own initiative or at the request of the Under Secretary / Administrator, to consult with the Under Secretary / Administrator to the extent permitted by law regarding the functions delegated by this section.”

ⁱⁱⁱ The memorandum from the Acting Administrator and Deputy Under Secretary to the AA for Fisheries on “Delegation of Authority for NOAA Fisheries Actions” of October 29, 2001 revised the review and clearance procedures to be consistent with the delegations contained in NOAA Organization Handbook FA000, Transmittal No. 34 (issued May 31, 1993.) It requests that the AA for Fisheries “inform the NOAA Administrator or his designee prior to making decisions on actions that you consider controversial.”

^{iv} The NOAA Procedures Manual for Congressional Communications (issued July 2002) prescribes procedures for preparing and clearing Congressionally mandated reports. It requires NMFS to “obtain comments from the NOAA / General Counsel (GC) office which provides legal support to the program”

and to provide the package “to EXSEC for review and clearance through appropriate offices in NOAA and DOC.”

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